IN THE HIGH COURT OF JUDICATURE AT BOMBAY

Appellate Side

Writ Petition 8243 of 2005

Mrs Aditi Sudhir Salunkhe ..Petitioner

vs

Mr Sudhir Krushna Salunkhe..Respondent

Mr.J A Sarkhot for petitioner

CORAM: S.U.KAMDAR J.

Dated 2l.l2.2005

P.C:

. Rule, returnable forthwith. Notice is served on the respondent. Inspite of the notice none appears for the respondent. Affidavit of service is taken on record .

. The present petition challenges the order dated 30.8.2005 passed by the family court at Mumbai rejecting the application to take the written statement on record. The court below has held that there is no power to condone the delay therefore no written statement can be taken on record beyond 90 days period. The finding given by the court below is contrary to the judgement of this court in the case of Chintaman Sukhdeo Kaklij and ors vs Shiraji Bhausaheb Gadhi reported in 2004(5) Bom C R 573 as well as the judgement of the Supreme Court in the case of Rani Kusum (Smt) vs Kanchan Devi (Smt) &

ors reported in (2005) 6 SCC 705. In that light of the matter the impugned order is erroneous and requires to be interfered with. Hence order dated 30.8.2005 is quashed and set aside. The family court is directed to take the written statement on record,if filed within one week from today. If the written statement is filed with the said period,matter to proceed from that stage. Petition is made absolute accordingly with no order as to costs.